

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ADALBERTO CORREDOR : CIVIL ACTION
:
v. :
:
SUPERINTENDENT R. COLEMAN, ET AL. : NO. 09-1817

ORDER

AND NOW, this 25th day of January, 2010, upon careful and independent consideration of the Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. No. 1), and after review of United States Magistrate Judge Timothy R. Rice's Report and Recommendation (Doc. No. 13), and consideration of Petitioner's Objections to the Magistrate Judge's Report and Recommendation (Doc. No. 15), **IT IS HEREBY ORDERED** that:

1. Petitioner's Objections are **OVERRULED**;
2. The Report and Recommendation of Magistrate Judge Rice is **APPROVED** and **ADOPTED**;¹

¹Petitioner's Objections to the Magistrate Judge's Report and Recommendation present no new issues and arguments. Rather, Petitioner merely re-argues that he is entitled to a new trial on charges of first- and second-degree murder, robbery, criminal conspiracy, and possessing instruments of a crime, because of prosecutorial misconduct. Specifically, he argues that certain statements that the prosecutor made in his closing argument, and the prosecutor's conduct in showing certain inadmissible photographs to the jury, deprived him of his federal constitutional right to a fair trial, due process and equal protection. However, in arguing as such, Petitioner does not acknowledge, much less address, Judge Rice's determination that his prosecutorial misconduct claim based on the photographs was procedurally defaulted because Petitioner did not fairly present that claim on direct appeal or collateral review and established no basis to excuse his default. Likewise, Petitioner does not directly address Judge Rice's determination that he was not entitled to habeas relief on his claim regarding the prosecutor's closing argument because the state court's conclusion that the claim was meritless was neither inconsistent with, nor an unreasonable application of, federal law, and was not based on an unreasonable determination of the facts in light of the evidence presented. See 28 U.S.C. § 2254(d). Accordingly, Petitioner has provided us with no basis on which to conclude that Judge Rice's recommendations are in error. Moreover, based on our own review, we conclude that the Report and Recommendation correctly analyzes the issues raised. Thus, Petitioner's Objections are overruled.

3. The Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 is **DENIED**;
4. Because Petitioner has failed to make a substantial showing of the denial of a constitutional right or demonstrated that a reasonable jurist would debate the correctness of this ruling, the Court declines to issue a certificate of appealability under 28 U.S.C. § 2253(c)(2); and
5. The Clerk shall **CLOSE** this case statistically.

BY THE COURT:

/s/ John R. Padova, J.

John R. Padova, J.